

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	CHAPTER 11
)	CASE NO. 21-07478
1600 Hicks Road LLC)	
)	Hon. David D. Cleary
)	
DEBTOR)	

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on **November 17, 2021**, at 10:00 a.m., I will appear before the Honorable David D. Cleary, or any judge sitting in his place, and present the **Motion to Dismiss and for Shortened Notice**, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance at the courthouse is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/join>. Then enter the meeting ID and passcode.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 161 122 6457 and the passcode is Cleary644. The meeting ID and passcode can also be found on Judge Cleary's webpage on the court's website, <https://www.ilnb.uscourts.gov/content/judge-david-d-cleary>.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

CERTIFICATE OF SERVICE

I, Richard G. Fonfrias, an attorney, certify that I caused a copy of the foregoing Notice and Motion to be served on the parties listed on the attached service list by electronic notice where indicated, or by first class mail by depositing with the United States Postal Service, Chicago, Illinois, postage prepaid, prior to 5:00 P.M., this 1st day of November, 2021.

/s/ Richard G. Fonfrias _____
Richard G. Fonfrias

Mailing Information for Case 21-07478

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

- Cheryl A Considine bankruptcy@hsbattys.com, bk-4hsbm@gmail.com, hbm@ecf.courtdrive.com
- Richard G. Fonfrias richprivatemail@protonmail.com, rfonfriasecfcourt@gmail.com; heath@casedriver.com; casedriverecf@casedriver.com; 3295273420@filings.docketbird.com; casedriverecfg@gmail.com
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	CHAPTER 11
)	CASE NO. 21-07478
1600 Hicks Road LLC)	
)	Hon. David D. Cleary
)	Room 644
DEBTOR)	

**DEBTOR'S MOTION TO DISMISS CHAPTER 11 CASE
AND FOR SHORTENED NOTICE**

NOW COMES Debtor, 1600 Hicks Road LLC, by its attorney, Richard G. Fonfrias, and moves this honorable Court to dismiss this Chapter 11 case, and in support thereof states as follows:

1. On June 15, 2021, Debtor filed a voluntary petition in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division to initiate the above-referenced Chapter 11 case. The case has not been previously converted from another chapter.
2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1334. This is a core proceeding pursuant to 28 U.S.C. §157. Venue is proper in this district pursuant to 28 §§1408 and 1409.
3. Section 1112(b) of the Bankruptcy Code provides that upon request of a party in interest, and after notice and a hearing, the Court shall dismiss the case if it is in the best interest of the creditors of the estate, so long as the movant establishes "cause."
4. Section 1112(b)(4) sets forth a list of sixteen grounds that constitute "cause" for dismissal. See 11 U.S.C. § 1112(b)(4)(A)-(P). A case may be dismissed for causes other than those sixteen specifically listed in that section. See *In re Tekena USA, LLC*, 419 B.R. 341, 346

(Bankr. N.D. Ill. 2009); *In Matter of Strug-Division, LLC*, 375 B.R. 445, 448 (Bankr. N.D. Ill. 2007).

5. The Court may dismiss a case for “cause” if the Court finds that there is a “substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation.” 11 U.S.C. § 1112(b)(4)(A); *In re LG Motors, Inc.*, 422 B.R. 110, 116 (Bankr. N.D. Ill. 2009). There are two elements to consider under Section 1112(b)(4)(A): (i) a “substantial or continuing loss to or diminution of the estate,” and (ii) “absence of a reasonable likelihood of rehabilitation.”

6. The Debtor owns commercial rental property located at 1600 Hicks Road, Rolling Meadows, Illinois (the “Property”), which it leases to a related entity, Exotic Motors, Inc.

7. The Property is subject to a mortgage in favor of EH National Bank, in an amount exceeding \$1.5 million.

8. The Debtor is not receiving rent for the Property and is unable to pay current mortgage payments to its mortgage lender. In addition, the real estate taxes on the Property have gone unpaid. There is a substantial and continuing loss to the estate and an absence of a reasonable likelihood of rehabilitation through Chapter 11.

9. The Debtor has entered into negotiations with its mortgage lender, which can take place outside of Chapter 11.

10. Conversion of this case to Chapter 7 would not be in the best interests of creditors. The value of the Property is scheduled at \$620,000, and the mortgage on the Property exceeds \$1.5 million. There are no other substantial assets in the estate. There would be no distribution to creditors in a Chapter 7, and there is no cause for conversion to Chapter 7.

11. The Debtor has served notice of this Motion on all creditors and parties in interest.

Because no purpose would be served in maintaining this case as an open Chapter 11, the Debtor requests that notice actually given of this Motion be deemed adequate.

WHEREFORE, the Debtor prays that this Chapter 11 case be dismissed.

1600 Hicks Road LLC

By: /s/ Richard G. Fonfrias
Counsel for Debtor

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